Maryland Forest Conservation Goal-Setting February 20, 2007

Chesapeake Bay Foundation Conference Room

6 Herndon Avenue, Annapolis, MD 21403 10am-2pm

Actions before next meeting

- -Send out information on MD land area calculated by the Chesapeake Bay Program as valuable for water quality and vulnerable to development: **726, 442 acres** of 4.8 million ac. Baywide.
- -Set up regional meetings to reach out to local jurisdictions- scheduled for
 - April 2 at Allegany Community College, Cumberland
 - April 4 at Maryland Fire and Rescue Institute, LaPlata
 - April 11 at Oregon Ridge Lodge, Baltimore County
 - April 12 at Dorchester Regional Airport outside Cambridge

Next Meeting: Wednesday, March 28th, 10-4, C-1 Conference Room, DNR in Annapolis

The meeting was opened with introductions by attendees, followed by presentations and discussion on land conservation programs that have potential to protect forest land from development.

Land Conservation Programs

Dr. Christine Conn led off with an overview of the variety of state and federal land conservation programs (Appendix A). She drew attention to the Transportation Environmental Stewardship Program as one that is a new opportunity for funding environmental improvements in areas with transportation projects, and could be used for forest conservation or restoration. This program adds to the significant array of land conservation in Maryland, with major state programs through Program Open Space, Rural Legacy, Maryland Environmental Trust, and Maryland Agricultural Land Preservation Foundation (MALPF).

Patrick Meckley presented the status of the *Forest Legacy* Program in Maryland. Forest Legacy is a USDA Forest Service program to protect working forest lands, and parcels are ranked nationally for funding priority. Maryland has had seven parcels successfully purchased in prior years (1,247 acres total in Worcester, Cecil, Anne Arundel, and Harford Counties), but we were not successful in our nomination for the last 2 years. The program is undergoing a 10-year revision and the Forest Legacy Areas that form the potential area for nominating parcels are being revised. Comments are welcome on the revised Forest Legacy Areas, currently covering 1,358,000 acres and 58% of the State's forests.

Pam Bush presented information on *Program Open Space* and *Rural Legacy*. Program Open Space has state purchases and funding that is transmitted to local governments for open space and recreation. POS funds tend to be fee simple purchases, but can include easements. Most POS purchases are intended to provide public access. Specific focus areas for forest conservation would be welcome. Rural Legacy purchases tend to be easements, often with substantial percentages of forest, and must be in designated Rural Legacy areas nominated by local governments. Both programs are fully funded this year, and the new governor seems committed to continuing full funding. Rural Legacy funding, \$20 million this year, is often supplemented with \$5 million in state bonds, although this is sometimes taken out of the state budget. With full funding, acreages protected under these programs could exceed 9,000 acres/year, although actual acreage for forest conservation could vary widely depending on price per acre and proportion that is wooded.

Marian Honeczy presented trends in implementation of the Forest Conservation Act, with most jurisdictions exceeding minimum requirements and 65% of the pre-development forest remaining or replanted after development. In 10 years, Maryland jurisdictions and state programs have resulted in the retention of 19,714 acres of forest, the planting of 13, 611 acres, and allowed clearing of 42, 906 acres. Development rates have increased in the last three years, with developed acreage from only 11 counties in 3 years being similar to the area from over 20 counties for the previous 10 years. She noted that significant acreages (about 10,000 ac./yr.) are placed in permanent protection each year by the local governments implementing the long-term protection requirements of their FCA programs for areas required to be retained on-site or planted on- or off-site. Most jurisdictions require easements, especially in the more rapidly developing areas, although some allow deed restrictions as the measure providing long-term protection. Mitigation banking is another facet, with \$6,000-10,000/acre being paid to conserve existing forest, and up to \$16,000/acre being paid to plant new forest. Areas having Forest Conservation Management Agreements, the property tax relief program, can participate in mitigation banking. Many of the areas protected through FCA are tracked through summary reports, but GIS information on location is not readily available. Existing local government programs can contribute substantial forest conservation if barriers to tracking can be overcome.

Information on *Maryland Environmental Trust* was sent by Jon Chapman to share with the group. They place an average of 3,000 acres per year under easement, primarily through donations. Roughly ¼ of the acreage is forested. To date, they have conserved 111,556 (only 74,614 acres shows in the DNR GIS system). The incentives for donation of development rights to MET include Federal and State income tax deductions, a State income tax credit, and 15 years of property tax credit for unimproved lands (see www.conservemd.org/donated/taxbenefits). Recent Federal pension legislation has vastly improved the income tax incentives, up to 100% of adjusted gross income for up to 15 years for farmers. Easements are perpetual and allow continued private ownership and management without significant outlay by the State (~\$250/ac). MET works with local land trusts and private conservation groups to reach out to landowners, co-hold easements, and sharing stewardship duties for monitoring and communication. MET

staff can help with prospective easements or outreach (Director Nick Williams, Eastern Region-John Hutson, Western Region-Adam Block, Southern Region-Diane Chasse, Central Region-Jim Highsaw, and Local Land Trust Coordinator Barbara Levin). Discussion at the meeting included:

- The need for outreach on conservation easements and forest harvesting (that easements do not have to restrict harvesting and shouldn't restrict options for forest health and regeneration);
- The opportunity to offer training to local land trust volunteers and executives combining legal issues and natural resource management basics;
- The past efforts of the Garrett County Forestry Board working with Penn State to offer seminars that address easements and forestry restrictions;
- The trend that unrealistic harvesting restrictions are not part of many of the major easement programs now, but may still occur in some easement language;
- The potential to increase the pool of easement donors by allowing the sale of tax credits for land-rich, cash-poor owners.

John Wilson in DNR's Public Lands reviewed approaches and polices for *State land acquisitions*, most of which would involve inholdings or lands adjacent to existing State lands. Potential parcels are identified by the land manager or DNR units, screened for their ability to be managed with existing lands, and reviewed by the Regional Team. The State has benefited from partnerships with non-profit organizations to be able to react more quickly to limited windows of land acquisition opportunities of desired lands. The land review policy was recently reiterated in a planning document, but has not changed in any substantive way from earlier years. The State is initiating an annual meeting with local governments to share land protection priorities, and is moving forward with a process for more unified approach to resource management.

Steve Bunker reviewed *The Nature Conservancy*'s efforts in land conservation in Maryland. TNC can hold land and also often partners with agencies for eventual pass-through to public owners. Some purchases passed through to public ownership are fully reimbursed once public financing is in place; others are sold for less than the original purchase amount, such as the recent 840-acre sale in Garrett County to Program Open Space, to balance the need for long-term protection and management of purchased properties with the ability of TNC to support additional conservation purchases. Areas of ongoing interest for TNC's targeting in Maryland include Green Ridge, Potomac Gorge, Nanjemoy, Nanticoke, Nassawango, and Dividing Creek. The rate of land acquisition has averaged 1,000 to 2,000 acres/year, although it varies greatly year to year. Most of the land tends to be forested, and some of the non-forested land is intended for restoration of forests or other rare species habitat.

Bill Crouch shared *The Conservation Fund's* approach and potential role in forest conservation. TCF generally works within public-private partnerships to acquire priority lands and pass them to partners, and does not hold land long-term. They are supported by foundations and individuals. TCF looks to support priorities set by partner agencies and organizations (e.g., Maryland's Green Infrastructure or TNC's forest matrix blocks), and provides the financing and expertise to acquire desired land areas. Transfer to another

partner may be donation or sale. They have staff with expertise in land acquisition and financing and the ability to enter into transactions more quickly than many public agencies, both of which can help the state move faster towards identified conservation priorities. TCF has participated in the purchase of 145,000 acres in this region, with 92,000 acres being forest (e.g. Chesapeake Forest, Glatfelter properties). This should not be seen as reflecting likely future rates of acquisition since other forest land transfers of that magnitude are not likely in Maryland.

Carol Council, from the MALPF staff at MD Dept. of Agriculture, presented the current program information for one of the state's largest land conservation program, *Maryland Agricultural Land Preservation Foundation* (MALPF). MALPF's legislative mandate is to preserve agricultural lands and woodlands. It has protected 250,000 acres over 25 years, and includes substantial areas of forest, although the majority of the land is crop or pasture. Forest cover statistics are not routinely calculated, but examination of the files from the June 2006 Board of Public Works meeting, the month in which the majority of MALPF contracts are approved, found that overall, 32% of the area was wooded, and 13 of the 148 parcels were 100% wooded. Participation in MALPF is voluntary, and eligibility is based on three criteria:

- Has more than 50 acres or, if smaller, contiguous to already preserved property;
- Is outside 10 year water and sewer lines; and
- 50% of areas have highly productive soils (Ag Class I, II, III or Woodland Capability 1 or 2)

MALPF does not discriminate against forest nor does it target forest. Areas of 25 acres of contiguous forest must have a forest stewardship plan. Forests must be available for harvest and <u>not</u> have a "no-cut" clause in the easement. There is a clear opportunity to improve outreach to forest landowners on the potential for MALPF to help maintain working forests.

MALPF currently has districts in counties where landowners sign up for a voluntary 5-year term easement as a precondition for perpetual easement purchase, but this provision is not functioning as intended. The districts are being eliminated in 2008, although counties may decide to run their own district program, such as where they are used for defining participation in Transfer of Development Rights Program or for tax credits.

Easements purchased prior to 2004 included the possibility of a 25-year buyout clause where the landowner could pay to be withdrawn from the program. Easements purchased in 2004 and later are now only perpetual easements without the buyout option. Another program change is an increase in State match to 60% that should encourage increased county participation in funding easements. Installment purchase agreements are possible, providing an income stream rather than a lump-sum payment.

MALPF funded 70% of applicants last year. MALPF easement payments are capped at an easement value calculated by 5-year average land rental rates from the State Agricultural Statistics Program minus a residual agricultural value. MALPF contracts also come with the landowner's asking price, and the program will pay the lower of the

asking price or capped easement value. Easements rates average around 70% of Fair Market Value, related to the ongoing agriculture value of the land.

Other programs and partners are active in Maryland, including Trust For Public Land, focused on recreational and drinking water protection priorities, and the Coastal and Estuarine Land Conservation Program, focused on ecological integrity and rare species habitat. In a correction from previous meeting notes, the federal Farm and Ranchland Preservation Program (FRPP) was noted as not limiting working lands functions, but has proved to have limitations in use based on requirements for match types and amounts.

Quantitative Forest Conservation Goal Discussion

General ideas on appropriate levels of forest conservation on the landscape were solicited. A minimum of 45% cover was suggested, based on studies that have shown a relationship between 45%-65% of forest cover and basic stream health. Maryland is currently estimated to have about 40% forest cover, although estimates made from finer resolution map products and lower minimum size thresholds for forest yield estimates closer to 45%. Current rates of protection based on the past progress under full funding could give approximately 20,000 acres/year in Maryland, not all of which would be forest. Over 650,000 acres are currently protected in Maryland, estimated at 27% of the forest. It was noted that Delaware has a goal to protect 50% of its existing forest by 2024.

Targeting based on water quality value was suggested, such as the acreage identified as most valuable for water quality and most vulnerable to development as identified in the Chesapeake Bay Program Resource Lands Assessment, and referenced in the Forest Conservation Directive/ State of the Chesapeake Forests (about 5 million acres in the Bay watershed). An updated acreage of the valuable/vulnerable lands for Maryland has been provided since the meeting by the Bay Program, and shows about 726,000 acres in Maryland, about 15% of the Baywide acreage, proportional to Maryland's share of Bay watershed.

Focusing on additional protection to be achieved was suggested, with a clear summary of the goal, such as protect another 20% of the forest by 2020. Suggestions also included making distinction between progress on different sectors, such as private/non-profit, federal, state, local government, and other groups. A clear justification between the recommended level and expected water quality benefit was identified as important.

Timeframe was discussed, with the opinion expressed that a 20- to 30-year timeframe could be desirable to accommodate the rates of maturation of trees. This would be particularly relevant for a restoration component and measuring environmental services of newly planted trees. Another time factor is the significant time to complete conservation easements or other transactions, usually a year or more for required surveys, landowner negotiations, and necessary paperwork.

It was noted that not all forest areas conserved would be through easement mechanisms; a larger portion would have to have market-based or other incentives to keep forest, whether it is traditional forest products or new markets for environmental services from forest land. The positive role of education and technical assistance has been and can continue to be used to encourage forest retention and good stewardship.

Working Forest- Non-market approaches

Past efforts to retain forest land have included property tax incentives, technical assistance, cost-share for approved practices, and education programs. Jonathan Kays presented information on the new technical manual designed for forest landowners with less than 10 acres, Backyard Woods. More than 70% of forest landowners now have less than 10 acres, and few financial incentives or technical assistance opportunities are available to them or designed for that scale. Backyard Woods is available to help landowners manage for forest and increase forest area on their property in the rural/urban interface areas. http://www.naturalresources.umd.edu/backyard.cfm

Forestry for the Bay is another program designed to engage forest landowners with smaller acreages. The Bay Bank is a proposal being developed to aggregate marketable credits for environmental services and increase access to developing markets for small landowners, creating greater incentive to retain forest. Bay Bank will be covered in the next meeting.

Urban Forest Approaches

Steve Carr from the City of Annapolis outlined Annapolis' approach to trees and forests in a densely developed setting. Annapolis mayor Ellen Moyer committed the City to expand its canopy cover of trees and community forests from the existing 40% to 50% by 2036. More than 4,000 trees will be planted by 2036, although current efforts are proceeding vigorously to achieve the goals well before then.

Planting efforts are paired with programs to maintain and protect tree cover. Trees are part of several associated pollution reduction efforts, including impervious cover reduction and other stormwater management.

The Impervious Cover Reduction program has a goal for reduction that parallels the canopy increase goal. The City seeks to reduce impervious surfaces by 10% from 42% at the same time that canopy increases 10%. The stormwater program uses multiple approaches:

- Adopting local responsibility for stormwater management;
- Cross training building inspectors in stormwater inspection;
- Incorporating rain gardens and green roofs;
- Establishing urban and rural living classrooms;
- Protecting wildlands in urban areas.

Annapolis has the only municipally owned land trust, but it is a model that could be easily and productively replicated across many other jurisdictions. The Annapolis

Conservancy Board has been able to set aside 120 acres within an area of 7 square miles through the planning and zoning process. Provisions to award a density bonus with clustering encourage compact development, and easements on undeveloped portions are given to the Conservancy Board as a condition of approval. This approach can be used to support establishment of greenways and protected forests.

The Watershed Conservancy takes an active role in watershed restoration, including acquiring grants for watershed assessment and restoration projects. The Greenscape program has had Earth Day workdays for 16 years, incorporating plantings, maintenance, and clean-ups. Greenscape alone is planting 3,000 trees on top of other programs, and has installed 30,000 plants. Most trees have been obtained through the TreeMendous Maryland program.

Baltimore City was the first jurisdiction to assess urban tree canopy and set a canopy goal, to double its canopy from 20% to 40% over 30 years. Chris Delaporte with the Parks and People Foundation endorsed the wisdom of Annapolis's comprehensive approach to expanding trees and forests through multiple tracks. He suggested that a state policy on urban tree canopy be developed (horizontal and vertical). A method of improving conditions in fully developed areas is needed, that can deal with the common conditions found there: neglected natural resources and with severe social stresses in areas like crime and education. Annapolis can serve as a model for an urban canopy approach. Technical and financial assistance are both needed. Community involvement must be built in for those areas despite the challenges of doing so, or trees will not survive. School groups can be an effective route to community involvement. A state urban tree policy should be integrated with the urban canopy goal.

The Chesapeake Bay Trust has committed funding to urban canopy expansion, and equivalent state funding has been proposed to assist local jurisdictions with tree establishment in urban areas. It was noted that currently 15% of sawmill stock in Maryland comes from urban forests.

Local Land Conservation Goals

The local Land Preservation, Park, and Recreation Plans (LPPRP) have sections on Agricultural/rural lands, Natural Resources including forests and minerals, and Park and Recreation. They are required for Program Open Space funds and are updated every 6 years. A few excerpts from the Natural Resources chapters of local plans were distributed for examples of content. While most local plans did not have quantitative goals for natural resources or forests equivalent to those for parks or agriculture, some examples of local goals were:

- Calvert Co.- Protect 90% of existing forest, 40,000 acres of farm and forest preserved, 30% of county;
- Prince George's Co.- Protect 75% of the Patuxent Rural Legacy Area, 26,238 acres.
- Charles Co.- Protect 50% open space in the county (farm or forest, wetlands).

Other counties included specific geographic areas of interest to conserve which could include specific acreage. Most but not all counties had established goals for agriculture land preservation, based in part on the Senate Joint Resolution 10 in 2002 that identified a goal of 1,030,000 acres of farmland statewide to be preserved by 2022.

Joe Tassone from Maryland Department of Planning presented the analyses of land use change being developed for the Statewide LPPRP that could be used to inform the forest conservation goal-setting process. Analyses included:

- Geographically specific development projections,
- Vulnerability of existing resource lands,
- Identification of selected natural resource lands, particularly Green Infrastructure hubs, Important forest land, Forest Interior Habitat, and Delmarva Fox Squirrel Habitat:
- Status and vulnerability of Ecologically Significant Areas (ESAs) for rare species and Stronghold Watersheds, watersheds with exceptional water quality and aquatic biodiversity.

Vulnerability was defined by using the level of subdivision thought to compromise rural resource land function:

- Low: <= 2 resource units/100 acres
- Medium: 3 5 resource units/100 acres
- High: 5+ resource units/100 acres

Major gains in conservation could be made by helping to develop effective Transferable Development Rights/Purchase of Development Rights Programs (TDR/PDR). They could be more widely used, but the perceived complexity of the programs remains a barrier in some places. Well-placed technical assistance could help overcome the complexity and address constituency concerns.

Maryland Department of the Environment provided written comments on issues that could pertain to the goal setting:

1) Reduction of impervious surface

MDE gives credit for retention of natural areas as an innovative and environmentally sensitive design for stormwater management. MDE wishes to retain flexibility in designated acceptable practices to consider landscape context. While environmentally sensitive design is encouraged, is not a formal preferred option. Retention of additional forest may be better addressed directly through the Forest Conservation Act.

2) Working forests

Forestry activities in nontidal wetlands are reviewed in erosion and sediment control plans with best management practices. While the BMPs are written for wetlands, they would also be useful in managing forests for future harvest while maintaining other forest/wetland functions. The intent of the practices is to:

- (a) Control soil loss and sediment deposition in nontidal wetlands;
- (b) Minimize water quality degradation caused by sediment;
- (c) Minimize adverse impacts to circulation patterns or flow of surface water or ground water;
- (d) Prevent a nontidal wetland from being changed to upland or any other area that no longer meets the nontidal wetland definition; and
- (e) Minimize adverse impacts to the chemical, physical, or biological characteristics of nontidal wetlands.

The following are considered in approving best management practices:

- (f) Properties of specific soils to resist compaction or ruts and support equipment;
- (g) Ability to maintain surface and ground water levels in the nontidal wetland after the harvest; and
- (h) Maintenance of the ecological value of nontidal wetlands of special State concern.

Attendance 2/20/07

First name Last name organization

Vince Berg Forestry and Conservation Inc.
Steven Bunker The Nature Conservancy

Pam Bush DNR, Program Open Space, Rural Legacy

Steve Carr City of Annapolis

Sally Claggett USFS Chesapeake Bay Liaison
Denise Clearwater MDE, Wetlands and Waterways
Christine Conn MD DNR Watershed Services
Carol Council MD Dept. of Agriculture

Kevin Coyne MD DNR Ecosystem Analysis Center

Bill Crouch The Conservation Fund Nevin Dawson MD Cooperative Extension Robert Feldt MD DNR Forest Service Chris Holmes **MD** Forests Association Marian Honeczy MD DNR Forest Service Jeff Horan MD DNR Forest Service

Jonathan Kays Maryland Cooperative Extension
Tim Larney MD DNR Wildlife and Heritage Service

Louise Lawrence MDA, Resource Conservation

Lori Lynch University of MD

Katherine Magruder Dept. of Business and Economic Development

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Program	Primary Types of Land	Geographic Extent	Strategy or Prioritization Method	Lead Agency & Participating	Protection Type (easement, fee simple)	Funding Source
Program Open Space POS	Recreational, Cultural, Forestry, Natural Resource	Statewide with 50% Local Allocation	Gov's Priorities, LPRP, DNR Regional Teams, GI, ESA and WQ Assessments *	DNR MDP, DGS	Easement & Fee Simple	Real Estate Transfer Tax, Bonds, Federal Grants (LWCF & TEA21)
Heritage Conservation Fund	Natural Resources	Threatened Endangered Species Habitat	Natural Heritage Methodology	DNR DGS	Easement & Fee Simple	Real Estate Transfer Tax
	Natural Resources, Agricultural, Cultural, Forestry	Rural Legacy Areas	GI, ESA and WQ Assessments *	DNR MDP, MDA	Easement & Fee Simple	Bonds, Real Estate Transfer Tax
Md. Agricultural Land Preservation Foundation - MALPF	Agricultural	Statewide - Primarily areas zoned for agriculture	County Ranking Systems & Discount from Easement Value	MALPF MDA, DGS	Easement	Agricultural Transfer Tax, Real Estate Transfer Tax, Federa Grants (FRPP)
Environmental Trust	Natural Resources, Agricultural, Cultural, Forestry, Historical.	Statewide	Targeted gift solicitations & local land trusts	MET DNR	Easement gift	Land & Easement Donations
Maryland Historical Frust - MHT	Historical, Cultural	Statewide	National & State Registers of Historic Places	MHT DHCD	Easement	Donations, conditions on Capital Grants
	Natural Resources, Cultural, Historic, Recreational	Transportation Project Area	Interagency Workgroup	SHA, State and Federal Agencies	Unknown – New Opportunity	Federal and State Highway Funding

^{*} GI = Green Infrastructure, ESA = Ecologically Significant Areas, WQ = Water Quality

Federal Land Preservation Programs administered by State Agencies						
Program	Primary Types of Land	Geographic Extent	Strategy or Prioritization Method	Lead Agency & Participating	Protection Type (easement, fee simple)	Funding Source
Land and Water Conservation Fund LWCF	Recreational, Cultural, Civil War, Forestry, Natural Resource	<u> </u>	Land Preservation and Recreation Plans - LPRP	DNR MDP, DGS, NPS		Federal Land and Water Conservation Fund State Appropriations USDOI
Transportation Enhancement TEA21	Scenic areas, Greenways, Trails, Civil War sites	Statewide	MDOT T.E. Technical and Executive Committees	MDOT/SHA FHWA	Easement & Fee	Federal TEA21 Appropriations FHWA matched w/50% POS Real Est.Transfer Tax
Farm and Ranch Protection Program FRPP	Agricultural	SISTEMICE	NRCS LESA Assessment	NRCS/USDA MDA	Hasement	Federal USDA FRPP Appropriations
Wetland Reserve Program WRP	Non tidal wetlands	Statewide	NRCS criteria	NRCS/USDA	30-year Easement	USDA - NRCS Appropriations in Farm Bill
Conservation Reserve Enhanced Program - CREP	Bay and Stream buffers	Statewide, stream corridors	MOA with USDA CCC	DNR, MDA NRCS/USDA	Facement	USDA appropriations matched w/ POS Real Estate Transfer Tax
Forest Legacy	Forest Lands		USFS criteria for FLA designation	DNR US Forest Service	Easement	Federal USDA appropriations matched w/ POS Real Estate Transfer Tax
North American Wetlands Conservation Act NAWCA	Wetlands and other natural habitat for migrating waterfowl	North American	North American Wetlands Cons. Council criteria	DNR NAWCC/USFWS	Easement & Fee Simple	Federal Appropriations USDOI-USFWS
Wildlife Restoration Act (Pittman- Robertson)	Wildlife habitat	Statewide	USFWS Grant Review criteria	DNR US Fish & Wildlife Service	Easement & Fee Simple	Federal excise tax on sporting arms, ammunition, archery equipment, and handguns.

	Habitat for fish & wildlife, public access & facilities	Statewide	USFWS Grant Review criteria		Easement & Fee Simple	Excise tax - fishing tackle & equipment; fed. fuels tax for boat access & related
Coastal and Estuarine Land Conservation Fund (CELC)	Significant and/or threatened ecological, recreational, historical or aesthetic values	Coastal Zone	NOAA Grant Review Criteria and State CELC criteria (GI, ESA and WQ Assessments*)	DNR NOAA	Fee Simple	NOAA appropriations w/1:1 State or local match using cash; in- kind services or suitable lands